

REMARKS

Claims 1-75 are pending, with claims 76-86 having been withdrawn in view of the Restriction Requirement mailed June 5, 2006, to which this paper is responsive. No claims are amended. In the Official Action mailed June 5, 2006, Examiner interposed a restriction requirement between Invention I (identified by Examiner as apparatus claims 1-75) and Invention II (identified by Examiner as method claims 76-86). Applicant herewith elects, with traverse, to prosecute Invention I herein, such that claims 1-75 are presented for prosecution and claims 76-86 are presently withdrawn.

It is respectfully submitted that a search for either the apparatus or the method would likely encompass a search for both. As the search effort would thus be the same, the Office resources would be sufficient to address all issues in one case, rather than place Applicants at risk of having to endure the costs of multiple filings and, if successful, multiple patents. Hence, it is submitted that the restriction requirement is inappropriate for that reason alone. Applicants expressly make no admission, however, that art teaching the apparatus would render obvious the method (or vice versa). Thus, Applicants do not here take a position, or make any concession, as to whether or not the apparatus and method are patentably distinct. Rather, Applicants submit that a search of the art would likely encompass both thus negating the need for any sort of election (and also saving Applicants the potential cost of multiple patents).

Nonetheless, to be responsive and to move prosecution forward, Applicants have elected what Examiner has identified as Invention I, without waiver of the right to seek claims directed to what Examiner has identified as Invention II in a subsequent or further filing.

Conclusion

In view of the foregoing, Applicant requests withdrawal of the restriction requirement and, in any event, elects Invention I and apparatus of claims 1-75. Applicant respectfully solicits examination on the merits and a formal Notice of Allowance at the earliest opportunity. If any issues remain, Examiner is respectfully asked to telephone undersigned attorney in an effort to promptly resolve same, especially since this case is now well over two years old, and has yet to have the benefit of an examination on the merits.

No fee is believed due for this paper. If any fee is due, please take this as authorization to charge same to our Deposit Account 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By: /kurt l grossman/
Kurt L. Grossman, Reg. No. 29,799

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202
(513) 241-2324 (voice)
(513) 241-6234 (facsimile)